brought into effect before the next school year commences. Mr. Itteechan wants his scheme to begin in May next. I have explained this at some length to show the practical difficulties in accepting Mr. Itteechan's resolution.

I shall conclude my remarks by saying that all these aspects of education as well as other aspects, which involve a change of our outlook and of our educational methods, and alterations of our curriculum are things to which the Department is not indifferent or inattentive. Government also are not unalive to the importance of these questions. They are being considered. The circumstance under which the members of the Council have also been considering the matter, as evidenced from the resolution before the House, is a welcome sign as it shows that the Government and the public are moving in the same direction. I have conveyed the information to the House on these points in order that they may have the assurance that the two important aspects envisaged in Mr. Itteechan's resolution and other equally important or more important aspects of an educational problem are not likely to be forgotten by this Department. I would accordingly suggest to the mover of the resolution that he should withdraw it.

The resolution was, by leave, withdrawn.

The following resolution was deemed not to have been moved as the member was absent.

Recruitment of Tahsildars.

3 MR. TARIATU KUNJITOMMAN (*Muvattupuzha* cum *Todupuzha*): This Council recommends to the Government that in future 50 per cent of the Tahsildars be recruited from the bar.

PRESIDENT: The next resolution stands in the name of Mr. A. S. Damodaran Asan.

Throwing open of roads, tanks and satrams to all classes of people

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Sir I beg to move the following resolution:—

This Council recommends to the Government that all roads, tanks and *satrams* maintained with Public funds be thrown open to all classes of people without distinction of caste or creed.

Sir, this resolution wants Government only to recognise the fundamental civic right of the citizens in the State and I do not want to wrong this House by anticipating that any member of this House is going to oppose my resolution. So, I do not want to anticipate any objection and then meet it. I will wait to answer objections if raised, during the course of my reply and so I commend this resolution for the acceptance of the House.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will the Municipal or the Devaswom Funds be public funds according to the member?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Before I answer that question, I would like to know whether I am entitled to discuss wether the Devaswom Funds are public funds or not. I would like to get the authority of the Chair to discuss that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If the member will not answer that question, I will put another question. Is it the member's position that if the cost of the maintenance of any road or tank is not charged to, or if at present charged to, is withdrawn from the public funds that road or tank may be closed?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): As for that matter I have introduced this resolution after careful consideration. With regard to the amendment suggested by the Law Member I will give an answer after hearing the members on the amendment suggested.

PRESIDENT: He asks you a question. He does not suggest an amendment.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): What is the question?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it the member's position that if the public maintenance in respect of any road, tank or *satram* is withdrawn; that road, tank or *satram* may be closed or may be restricted to any particular class of people?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): I think that if public funds are not spent for the maintenance of roads, tanks and *satrams*, I have no objection in keeping them closed to some communities.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does the member consider that a portion of the public is also "public".

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): I do not say anything about the public. Is it with reference to this resolution that he asks the question?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. It is with reference to that. The member has not made a speech and he has not explained or given reasons in support of his resolution. I wish to know what his position is and that is why I am asking him these questions. Is it the member's position that no roads should be reserved for the benefit of any specific communities?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): I think so.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Will the member advocate special schools for Pulayas?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): In Pulaya schools Brahmins are not denied admission. All that I say is that all institutions that are maintained with public funds should be thrown open to all without distinction of caste or creed.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Is it the member's position that when any property or thing is not open to every member of the public, that property or thing should not have public funds spent on it ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : What is the need for these questions ? I would like to have particular instances. These are very wide and vague questions. I am not able to grasp the meaning of these questions, and so I would answer after hearing the Law Member.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : One more question. If roads are near or appurtenant to temples is it the member's opinion that they too should be thrown open to all ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : If they were maintained out of public funds they should be thrown open.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : One more question. I now ask the member once more whether he intends by 'public funds' 'Devaswom funds' also ?

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Yes, as regards that matter what I wish to know is whether I can discuss the point whether Devaswom funds come under this ?

PRESIDENT : Not that you are to discuss it, but you can state your position. You can say whether you include that also in your resolution.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : Funds at the disposal of Government that is what I mean.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Then, Sir, I rise to a point of order. Apparently the member includes properties maintained out of Devaswom funds also. I thought, when he moved the resolution he did not include institutions maintained out of Devaswom funds. Now I think that we must have a clear assurance from Mr. Asan whether he includes also institutions maintained out of Devaswom funds. If he does include or his resolution touches upon Devaswoms the resolution is out of order as beyond the purview of the Council.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*) : For that matter, I never said that it includes Devaswom funds.

PRESIDENT : Your resolution does not say that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yes, Sir, on that assurance. I withdraw my objection.

MR. N. R. KRISHNAN (*Nominated*) : മി. ആശാന്റെ പ്രമേയത്തെ ഞാൻ പിന്താങ്ങിക്കൊള്ളുന്നു.

MR. D. C. JOSEPH (*Agastisvaram*) : Sir, I most heartily support the resolution brought forward by Mr. Asan. I am gald that he has brought this resolution at an opportune moment when the people are clamouring for increased privileges, emancipation from social tyranny

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. D. C. Joseph.]

and a lot of other rights. The claim for recognising the elementary rights of citizenship is a reasonable and just one. It is our bounden duty to see that by closing roads, tanks and *satrams* Government do not deliberately promote untouchability. Untouchability is a monstrous creature which is responsible for so many heart-rending and heart-burning questions. This custom which does not secure the right of equality and justice loses its claim for obedience. The preponderance of this inhuman, dirty and crude creature must be viewed with condemnation. I do not understand when people are fighting for liberty, something like 15 or 16 lakhs of people are denied the elementary rights of citizenship for no fault of their own but simply to satisfy the will and fancy of the orthodox section of the so-called Caste Hindus. It is rather difficult to think why a Government should tolerate such a thing. I must view it with sorrow. Now the resolution that is before the House is about roads, tanks and *Satrams* maintained with public funds. I want to lay emphasis only on that particular point. Those are things maintained by public funds. To cite one instance the *satram* at Cape Comorin is maintained with public funds. A dog or an ass can occupy that *satram*.

MR. S. PIRAVI PERUMAL PILLAI (*Commerce and Industry; South*): May I know whether the road inside the Tulsi Hill Bungalow is also included in this resolution?

MR. D. C. JOSEPH (*Agastisvaram*): I am not going to answer that question.

PRESIDENT: What is your question, Mr. Piraviperumal Pillai?

MR. S. PIRVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know whether the road inside the Bungalow now occupied by the Commissioner of Police is also maintained by public funds?

MR. D. C. JOSEPH (*Agastisvaram*): The *satram* at Cape Comorin is maintained with public funds. A dog or an ass can go to the *Satram*. I am sorry that the so-called untouchables are not allowed to enter the place. If the individuals who are allowed to go to the sacred place are examined by the Medical Board or any body, I do not know whether the examination is being done now, they will not be allowed to enter the places. At our cost others enjoy the benefit of our *satrams*. There is one road at Peruvila that goes through the M. S. road to Peruvila. It goes through oilmongers village. The other side of the Village is occupied by Nadars. They applied to the Government for one or two furlongs of land to be converted into road. But without proper reason Government refused to convert it. They have agreed to construct a roundabout road of two or three miles. For a paltry sum of one hundred rupees Government are prepared to spend three or four thousand rupees, because the monstrous creature *mamul* is playing a monstrous part. Government think they are unable to meet that *mamul* and say that they are prepared

LIBRARY ARCHIVES Kerala Legislative Assembly

to abide by old customs. That is the kind of reasoning. There are instances to show that Government are not prepared to attend to the grievances of the people. There are other powers which are prepared to come to the rescue of the people. In those days, that is about 50 years ago, Nadars and Nadar Christians were not allowed to wear upper jackets and there was a hue and cry, and the Paramount Power had to interfere and force the local Government to allow that freedom.

PRESIDENT: It is better not to introduce the Paramount Power in a discussion on the floor of the House.

MR. D. C. JOSEPH (*Agastisvaram*): I beg your pardon. So, what I want to place before the House is that the roads and *satrams*, etc., should be thrown open to all. There is also a road at Myladi that goes through a village which was occupied by Christians and Nadars hundred years ago. Subsequently caste Hindus inhabited that place.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it or is it not open to all classes of people now?

MR. D. C. JOSEPH (*Agastisvaram*): It is open to all classes of people, but there is one restriction. All those places are occupied by all classes of people and the Christians and Nadras are allowed to go in procession without music and they are not allowed to take their dead bodies. They have no other go but stealthily to pass through that road.

MR. V. CHELLAM PILLAI (*Tovala*): May I know whether the road which he referred to is one that is maintained by public funds?

MR. D. C. JOSEPH (*Agastisvaram*): Yes, that is a *poramboke* road, not even a private road. It is maintained by public funds. With these remarks I strongly support the resolution brought forward by Mr. Asan.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to oppose this resolution. In doing so I must say at the very outset and very clearly that it is not the intention or the desire of the Government that public funds should be used to perpetuate any class privileges. At the same time I am clear that the resolution in its present form cannot be accepted. The resolution says that all roads, tanks and *satrams* maintained with public funds should be thrown open to all classes of people and thus the criterion of a road, tank or *satram* being open to everyone is the maintenance of that road, tank or *satram* out of public funds. Apparently Mr. Asan wanted to imply by his resolution that if public funds are utilised for the maintenance of any property or institution that property or institution must for that reason be open to every member of the public. I submit, Sir, that such a proposition cannot be accepted and I daresay that this House too will not accept that proposition. 'Public' even in the strict legal sense includes a portion of the public and irrespective of that, it may be necessary very often to use funds for the benefit of a restricted portion of the public. To illustrate my point and bring it home to the House I will cite an analogy. It is only an analogy, and not an argument, and cannot be pushed too far. Take the case of the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayalam Paramesvaran Pillai.]

Girls' High School there. That has got roads and rooms inside, and all those are maintained out of public funds. Will it be contended that every member of the public should be allowed to go to the school and be allowed to walk on the roads or use the rooms? I say that it will not be a correct position to take that merely because public funds are utilised for the maintenance of the institution, every member of the public should have access to that.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether he explains the term 'public' or part of the public as a set of vagabonds?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I am saying that the resolution as it really purports to be, namely, that all institutions maintained by public funds should for that reason be open to the use of every member of the public, cannot be accepted.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): With reference to the illustration given by the Law Member, may I know whether on business any body is prohibited from using the Girls' High School road?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That will depend upon the business. It is not open to every member of the public, that is clear. So long as Mr. Asan brings public maintenance as the sole criterion, I say that one cannot accept the proposition that merely because an institution is maintained out of public funds, it should be thrown open to *every* member of the public irrespective of all other considerations.

MR. R. RAMAN PILLAI (*Kottayam*): അപ്പോൾ ഉപപാഠത്തിൽ "Every member" എന്നുകാണുന്നില്ല. "Every class" എന്നേകാണുന്നുള്ളൂ.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am coming to that presently. What I say is that the argument of public maintenance does not take us any distance in support of the resolution. As for the analogy, I said at the very outset that an analogy is not an argument. I mentioned that merely to bring home to the House what I mean. Merely because the Girls' School road is maintained out of public funds, one cannot say that he must have admission to those roads.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know, Sir, whether the Girls' School belonging to the State is not entitled to be used by all communities?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. But can every member of the public come forward and say I want to use it because it is maintained by public funds? If that is the sole criterion then the resolution cannot be accepted. If he said something more than merely that a road is maintained by the public,

LIBRARY ARCHIVES Kerala Legislative Assembly

I can understand that. The only description of the road that is given here is that it is maintained by public funds and it is not stated that they are even *public* roads. Take the instance of the road suggested by Mr. Piraviperumal Pillai. That is a road maintained by public funds.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Which is that road?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That road is in a Government bungalow.

MR. A. THANU PILLAI (*Trivandrum*): Is anybody belonging to any particular class of people prevented from using that road?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Class or no class, any member of the public *may* be prevented.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the Tulsi Hill and the bungalow is entirely reserved for the use of the Police Commissioner or a particular individual belonging to a particular caste?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I understand that is at present occupied by the Commissioner of Police.

MR K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether it is in the discretion of the Government to allot that to any other member whether an officer or a non-official?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may or may not be. I cannot say at present.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): But has he not the right to use that building by paying rent?

MR. L. A. BISHOP (*Commissioner of Police*): I have purchased the right by paying the rent.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Probably what Mr. Madhavan Pillai suggested just now will answer the point of Mr. Asan's resolution quite correctly; yet the public funds are utilised for its maintenance. Mr. Bishop points out that he has purchased the right to use it, he pays the monthly rent; and he has purchased the user of the house and it is maintained by public funds. Mr. K. P. Nilakanta Pillai would say that because it is maintained by public funds it is open to each and every member of the public? Is it so really? So, when Mr. Asan says that all roads maintained by public funds should be open to everybody I cannot accept that. But, if he said that all *public* roads should be open, to every member of the public I can understand it.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does the Law Member realise the underlying idea in the resolution? Is that nobody should be forbidden the use of a road because of his caste only?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That may be. But the reason that is alleged is only that the road is maintained out of public funds and not that the road itself is a public road.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. R. KESAVA PILLAI (*Kottarakara* cum *Kunnattur*): Is the member aware that certain roads which were not open to the public were open to them subsequently?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, they were opened. They were so thrown open not merely because, I believe, that they were maintained out of public funds.

MR. R. KESAVA PILLAI (*Kottarakara* cum *Kunnattur*): What was the Government's objection to throw open these roads to all classes of the people?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not understand which road the member refers to. Mr. Asan did not complain of any particular road or particular class of roads. In fact, that is another comment which I have to make on Mr. Asan's proposition. It will be noticed that he was all too brief in his speech and we can now go only by the literal terms of the resolution.

MR. R. KESAVA PILLAI (*Kottarakara* cum *Kunnattur*): Is the member aware that the roads around the Vaikam temple were not thrown open to all classes of people some years ago but that they were thrown open to the public subsequently.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am prepared to accept the member's assurance on that point.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): Is it the Law Member's point that all the roads in the State maintained out of public funds are open to all classes of people without distinction of caste or creed?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is not my contention. My point is that Mr. Asan has not cited any particular road or class of roads. In his resolution he has given only one description and that is that the roads, tanks and *satrams* are maintained out of public funds. Therefore I instanced the roads in the Tulsi Hill Bungalow and the Girls' School compound. If the member had directed his resolution against any particular road or class of roads, I could have answered him. If for instance he said that roads necessary for public convenience should be freely thrown open to all without distinction of caste, I could then have understood it.

MR. D. C. JOSEPH (*Agastisvaram*): Is the member aware that certain roads in the Nagercoil town are thrown open to all classes of the people during the whole of the year except for ten days?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am not aware. Not that I deny the member's statement. Only, I have not got the information required by the member. I am now, however, concerned only with the resolution as it is, before the House.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Is it the point of the Law Member that the question of throwing open a road maintained out of public funds will depend upon the necessity on the part of the public?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, of course, it must depend upon public convenience and the necessity of the public for that road. Otherwise there is no use of opening that road merely because public money is spent upon it.

MR. D. C. JOSEPH (*Agastisvaram*): Is the member aware that certain public roads in the Tovala taluk are thrown open to all classes of the people except for ten days in the year?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have not got information about any individual roads. I am only concerned with the present resolution, which merely refers to roads maintained out of public funds.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know whether, if a particular road is closed to certain classes of people for a particular period, it is in the interests of peace and order in the locality?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That will depend upon the road. I am not concerned with individual roads. I am speaking of the class of roads mentioned by Mr. Asan in his resolution, *viz.*, those roads, whatever their nature, that are maintained out of public funds.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): After getting notice of this resolution, have the Government tried to ascertain which of the roads maintained out of public funds are not thrown open to all classes of people?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot answer that question now.

MR. A. S. DAMODARAN ASAN (*Mavelikara* cum *Kartikapalli*): When the Government are in possession of the necessary information is it fair on the Law Member's part to throw the burden upon me of citing all details?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am not throwing any burden on him. I am only pointing out that the resolution as it stands has no relation to public convenience or necessity.

If for instance the member's complaint was that *public* roads, roads necessary for public convenience, in any particular place had been kept closed for certain communities, I could understand that position. But if the reason for throwing open is merely as is stated in the resolution that the road is maintained out of public funds—if that alone is the reason—then I say that cannot be accepted.

MR. A. THANU PILLAI (*Trivandrum*): Does the Law Member admit the position that no man should be prevented from using roads maintained out of public funds merely on the ground that he belongs to a particular community?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is not accepted as a general proposition. If Mr. Asan had cited particular instances of roads, I would have been in a better position to answer the question. Mr. Asan excluded I think rightly excluded, from the purview of his resolution roads and tanks attached to Devaswoms. They are all maintained out of public funds in one sense of it according to the view of Mr. Asan. And yet, Mr. Damodaran Asan does not contend that the roads and tanks attached to temples are within the ambit of his resolution.

Therefore, in the same manner as Mr. Asan himself has to concede that certain roads and certain tanks, namely, the temple roads may be excluded from certain portions of the public although they may be maintained out of public funds, in the same manner I contend that there may be other tanks, roads and *satrams* which may have to be excluded. If it is stated as a general proposition that all public roads, tanks and *satrams* maintained out of public funds must be thrown open to every one Government can view the resolution only with general sympathy. They will no doubt throw open if there is no objection. More cannot be said now.

In regard to tanks, a resolution was moved and passed by this Council and it will be interesting to the Council if I read the text of that resolution to show with what care for private rights it was worded. This is the resolution:

"All tanks which are maintained out of public funds and over "which no rights have been created by the Government be thrown "open to the public."

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*): Has anything been done after that?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. That is being considered. A list of tanks has been got prepared and probably a G. O. will issue very shortly. That is why I said Government are not anxious to perpetuate any particular privilege for any particular class of people unless there is some reason on public grounds or on the ground of the customs of this country. Some tanks, even according to the tenour of the resolution have to be kept closed. But that is a different matter.

All that I object to is that the general and comprehensive proposition of Mr. Asan, which is that all roads maintained out of public funds should be thrown open to all classes of people.

MR. A. THANU PILLAI (*Trivandrum*): May I know the grounds on which these special rights have been created?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That will depend upon each particular case. If Mr. Asan confined himself to certain specific roads I would have been able to answer such questions. Government will view the question very

LIBRARY ARCHIVES Kerala Legislative Assembly

sympathetically if any member of the House will bring to the notice of the Government that any roads which are kept closed are required for public convenience.

With regard to roads particularly, I may bring to the notice of the House the fact that there are two classes of public roads, recognised by law. They are (1) the King's highways or the *Rajapathas* and (2) the *Gramaveethees*. In regard to the latter although they may be maintained out of public funds, yet, the civil courts recognise that they need not be open to all classes of the people. In such matters the Government have to be very slow to move because what are, or what are believed to be, vested rights may be affected. Probably the members will tell me that the Government are not unable to act. By a Statute anything may be done. And the legislature has got the power to enact a law. But when civil courts recognise certain restricted rights, Government can act only with caution and on sufficient grounds.

I may also draw the attention of the House to what took place in Madras sometime ago in the matter of roads and what the Madras Government did in the matter. The question arose there pointedly in the matter of the Kalpathi road. The contention was raised that because it was maintained out of public funds it should be thrown open to all classes of the people. This is what the Madras Government say with reference to that in their G. O.

> "The Government desire to reiterate that the public have the right of access and use in respect of all public highways, but it is not for them finally to decide whether a particular street or road falls within the classification."

What is implied is that this latter point will have to be decided by the civil courts.

Now in regard to public highways, I may say that long before this Council came into existence namely in 1040, the public roads were thrown open by Government to all classes of the people without any distinction.

MR. A. THANU PILLAI (*Trivandrum*): Do the Government maintain the position that the *Gramaveethees* maintained out of public funds should not be made accessible to members of all communities?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In that general form it cannot be answered; if the member will specify any particular road, then I will answer him.

MR. A. THANU PILLAI (*Trivandrum*): What is the Government's position in regard to the accessibility of all the roads maintained out of public funds to all classes of the people?

PRESIDENT: That is exactly what Mr. Paramesvaran Pillai has been trying to explain.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, Sir, that is what I am trying to explain. In regard to the *Gramaveethees*, civil courts have recognised certain exclusive rights in favour of certain classes of people. When the civil courts have recognised such rights, the House would not tell me that the Government

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Paramesvaran Pillai.]

should set at naught those rights and fly against the civil courts. That will be a very dangerous precedent for the House to recommend to Government. In regard to the public highways, such as those contemplated by the Government of Madras, there is a notification in Travancore, of July 1884, by which all public roads were thrown open to all classes of people alike. This is what the notification says

> His Highness' Government deem it necessary..... to impress upon all concerned that the Courts and Cutcherries of the State and all public roads and market places are open alike to all classes of His Highness' subjects without distinction of creed or caste and that no man shall be allowed to hinder another from the free use of them on any ground whatsoever."

and then the notification adds that any public officer offending against the notification—

> " will be visited with the severest displeasure of Government."

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*) : Were not those roads thrown open to all classes of people before that time ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : They were, I think. What was conveyed in this notification was more a declaration of the rule that no person should obstruct anybody from going through public roads and that if anybody did so he will be visited with the severest displeasure of Government. This has reference and has been interpreted to have reference to the strictly public roads, that is the public highways. But what are all the roads that come within the class of public highways? The final decision of that should be left to the civil courts at least as a general rule and it cannot be urged upon this House or on the Government that merely because the *Gramaveethees* over which certain exclusive rights have been given to or are claimable by certain communities, are maintained, out of public funds, they should be thrown open to all classes of the people. What is it that the Government are advised to do? To go against certain civil rights, rights which will be enforced by civil courts ? If so what is the paramount reason for such a step ?

That is why I said that if Mr. Damodaran Asan had confined his resolution to any specific road or class of roads I would have been in a position to say whether that road could be made open to all classes of the people or not. So long as the resolution is worded in the comprehensive form in which it now is, and describes the roads to be opened as roads, ' maintained out of public funds', then, I think it will be impossible to say that all such roads can be thrown open. That is why I instanced the roads in the Girls' School compound and the Tulsi Hill Bungalow.

MR. A. S. DAMODARAN ASAN (*Mavelikara cum Kartikapalli*) : May I know whether when there is an old custom which is injurious to the public and the courts adhere to the long established custom, the legislature should not help the Government in administering proper justice ?

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Are we not competent to alter obnoxious customs and are we to consider that all bad customs are valid for the future also?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That general question does not arise now. The question now is whether this House should not advert to the possibility of certain rights being maintained by civil courts?

PRESIDENT: The discussion will be continued to-morrow. The House will meet to-morrow at 11·30 A. M.

The Council adjourned at 5-4 P. M. to meet again at 11-30 A. M. the next day.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

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